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4.109 Background Check Policy

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Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> Campus <input type="checkbox"/> Department/Unit <input type="checkbox"/> Interim		Background Check Policy Policy 4.109	
Human Resource Policies		Effective date: October 11, 2011	
Policy History:	Approved by:	Resolution #	Date:
	Chancellor	N/A	October 11, 2011
Revised:	Office of University Counsel	N/A	May 12, 2017
Revised:	Office of University Counsel	N/A	April 13, 2018
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of University Human Resources	Director of University Human Resources	937-769-1375	All Employees

I. Introduction and Purpose

All applicants for employment are required to self-disclose any criminal convictions other than traffic violations on the employment application. In addition, various background information and records may be required on all internal and external final candidates for positions with the University. The degree and level of the background check will depend on the classification of the position sought. However, all employees are subject to a criminal records background and reference checks. Employees who will have access to funds of the University or University credit cards are also subject to a credit history check. The purpose of this procedure is to describe the types of background checks that may be administered and findings that may render an individual ineligible for employment.

II. Definitions

Background Check. Process of acquiring records regarding a final candidate that are used to determine suitability for initial or ongoing employment.

Break in Service. Any separation from employment with the University.

Criminal Conviction. Being found guilty, entering a guilty plea, or pleading no contest to a felony or misdemeanor other than a traffic violation.

Fair Credit Reporting Act. Federal law that regulates collection, dissemination, and use of consumer credit information.

Final Candidate. Internal or external applicant identified as the single finalist for a position.

Hiring Manager. The administrator responsible for the hiring process for the affected position.

Appointing Authority. The administrator with authority to appoint an application to a vacant position.

III. Self-disclosure of Criminal Convictions by Applicants

A. All internal and external applicants for positions are required to fully and accurately self-disclose all criminal convictions when they apply. Internal and external candidates who fail to accurately self-disclose shall be ineligible for further consideration for employment with the University. Furthermore, any such failure shall be grounds for immediate termination from employment if discovered after the employment decision is made.

B. The Office of Human Resources (“HR”) is required to ask all interviewed candidates about negative information revealed on applications and inquire about the nature and circumstances of any criminal conviction during the interview process. A criminal conviction does not necessarily disqualify an individual from consideration for employment. The inquiry should focus on the date of the conviction, the circumstances of the conviction and the relevancy to the job duties.

IV. Self-disclosure of Criminal Convictions by Current Employees

A. Current employees including student employees are required to self-disclose post-employment criminal convictions within three business days of the conviction.

B. Volunteers are similarly required to self-disclose criminal convictions within three business days of the conviction, and any failure on the part of a volunteer to disclose criminal convictions during the time of volunteerism entitles the University to discontinue the privilege of volunteering.

C. Adjunct faculty that have a break in service must disclose any convictions to HR that occurred during the break in service within three days of returning to active employment to HR.

D. Employees who fail to timely and accurately report criminal convictions will be subject to immediate disciplinary action including possible termination from employment.

V. Background Checks

A. AU may conduct various types of background checks including, but not limited to:

1. A criminal background check will be conducted for all final candidates prior to

employment. This may include a review of the National Criminal Records databases as well as Federal Court records and County Court records for those jurisdictions in which the prospective employee has resided.

2. A credit history check will be conducted on final candidates prior to employment for those individuals who apply for positions with the University with responsibility for financial resources.

3. A motor vehicle history check will be conducted on all final candidates prior to employment who drive a University-owned vehicle during the course of their work at AU.

4. A reference check from relevant listed references must be completed for all final candidates prior to employment.

5. A transcript verification check will be conducted on all final candidates for employment as faculty. Faculty candidates typically must provide a certified copy of all transcripts prior to beginning employment. See Faculty Qualifications Policy #5.303. Other candidates for positions requiring a degree may be required to provide a certified copy of their transcripts under certain circumstances.

B. HR will determine what background checks shall be conducted for each position, based upon a review of the job description and the responsibilities of the position. This includes, but is not limited to, positions that have access to money, master keys, security-sensitive areas and confidential information, use of AU vehicles, positions that have the capability to alter or destroy software, systems and data, and positions that are responsible for the care and instruction of minors.

C. None of the provisions of this procedure shall be used as the basis for illegal discrimination or retaliation against any individuals or groups.

D. All job postings will normally include a statement indicating that candidates will be subject to background investigations (*e.g., Antioch University is committed to providing a safe and productive learning community. To achieve that goal, we conduct background investigations for all final applicants being considered for employment. Background investigations may include reference checks, a criminal history record check, and when appropriate, a financial credit and/or motor vehicle history check.*).

E. All offer letters shall include a statement that the offer is contingent on the results of a background check.

F. HR is responsible for ensuring compliance with the requirements of the Fair Credit Reporting Act. Should an adverse action be contemplated because of the results of a background investigation on matters covered by the Fair Credit Reporting Act, HR shall normally consult University Counsel

G. Final candidates will be given a copy of the Background Check Release and Authorization for Pre-Employment Screening Form 4.109:01 and Background Check Disclosure Form #4.109:02 provided by the University's third party vendor authorizing them to conduct all of the required background checks described above. Background investigations will normally be conducted only on those intended to receive an employment offer. Candidates shall provide all required information including addresses at which they have resided in the past seven years, social security

number, state driver's license number, date of birth and other relevant identifying information to HR. This information will remain confidential and will be used only by the vendor for purposes of conducting the background check. Refusal to provide the required information or sign the background investigation authorization shall eliminate the candidate from further consideration for employment.

H. Appointing Authorities and Hiring Managers are required to communicate with HR to advise them that a hiring decision has been made and a final candidate has been identified so that HR may conduct the appropriate background checks on all final candidates.

VI. Assessment and Impact of Background Check Information

A. HR will assess the information contained in the background check using the following principles.

1. Any background check that contains negative information which may have an adverse effect on the employment decision should be reviewed with University Counsel.
2. Felony and misdemeanor convictions will be taken into account in evaluating the candidate's criminal history. Arrests without convictions in a closed case will not be considered.
3. Open criminal proceedings may preclude a candidate from being considered for employment at that time depending on the nature of the alleged offense and its job-relatedness. The University will assess the circumstances surrounding the arrest including the nature and gravity of the charges and their relevancy to the job duties of the position. University Counsel should ordinarily be consulted in determining whether the candidate should be further eligible for consideration.
4. A criminal conviction does not necessarily bar an individual from being considered for initial or continued employment. In considering a criminal conviction, the following factors will be used to determine an appropriate course of action:
 - a. The nature and gravity of the criminal behavior;
 - b. How related the criminal conviction is to the job responsibilities, duties, or contractual obligations as applicable;
 - c. The context of the events surrounding the criminal conviction and the totality of circumstances present, including the date of conviction;
 - d. A past pattern of similar criminal convictions and the future likelihood of illegal activity as might be indicated by this pattern;
 - e. Potential damage to the University's reputation and/or violation of the public trust; and
 - f. The impact on the University's primary goal of providing a safe and secure

learning and working environment; and

g. Any extenuating circumstances documented by the employee or otherwise known to the University.

5. Each determination of eligibility for employment will be made on a case-by-case basis. A determination of ineligibility for a specific position as the result of an individual's credit report does not mean that the individual is ineligible for all employment with the University. The following guidelines will be used by the University to interpret the information obtained from the credit report for each applicant and/or current employee:
 - a. The nature of the position at issue and the employee's access to cash or assets of the University.
 - b. The extent of the credit issues present. Student loans currently in default and bankruptcies will be considered bad credit. A bankruptcy does not necessarily disqualify an individual from consideration for employment in a financially sensitive position. All of the facts and circumstances must be considered. For example, a bankruptcy followed by good credit free of judgments and collection actions indicates an attempt to rectify past credit problems and may be considered acceptable. The length of time since the bankruptcy is also relevant. The longer the period of good credit post-discharge in bankruptcy the more acceptable the risk. Typically, a good credit record of no less than 3 years post-bankruptcy is the minimum required for most financially sensitive positions.
 - c. Credit reports indicating installment and/or revolving credit payments that represent an excessive proportion of gross monthly income are not acceptable. Installment debt is debt issued on the condition of regularly occurring payments until the principal and interest are paid in full. Examples include, but are not limited to, rent, car loans, student loans and mortgage payments (principal and interest only). Revolving credit is a line of credit that can be borrowed against. After the money is paid back, the credit limit revolves back up to what it was originally. Examples include credit cards and equity lines of credit.
 - d. One or more unpaid collections or judgments will be considered bad credit. Collections and judgments may appear under the "Public Records" section of a credit report. Collections and judgments can be paid or marked paid or satisfied but will not be removed from the credit report for seven (7) years. If collections and judgments have been paid and all other credit is satisfactory, the University may approve the applicant for employment, at its discretion.
 - e. Mitigating factors regarding an applicant's credit report, such as hardships and disputes with creditors, will be considered by the University upon timely submission of objective written evidence, as long as the evidence presented, in the sole opinion of the University, represents reliable evidence beyond the applicant's control.
 - f. It is not the responsibility of the University to discover, research, or verify that there are possible mitigating factors for an adverse credit report. The burden of

proof to present mitigating factors rests entirely with the applicant.

B. HR shall prepare a certification of its background check and forward a copy to the Hiring Manager and place one in the in the applicant's/current employee's (hereinafter "the candidate's") file stating the date the report was obtained, the name of the person or persons reviewing the background report and a statement that the background report showed that the candidate was or was not eligible for employment at the University. The background report itself will be kept confidential and will be maintained only by HR in a file separate and apart from the personnel file or Search Committee file. Neither the Hiring Manager nor others outside of the HR officeshall have access to the report. The hiring department will only be told that the candidate's background report was or was not acceptable for the position.

C. HR shall communicate the outcome of the evaluation to the candidate. Candidates not hired as the result of the third-party vendor background check will be provided with a copy of the results and a copy of the Summary of Your Rights Under the Fair Credit Reporting Act.

VII. Retention

All information received in connection with the background check process or current employee self-disclosure or criminal convictions process will be treated as confidential and shall be disclosed only to those with a need to know and will be maintained separate and apart from the candidate's personnel file. Background check documentation and self-disclosed criminal conviction information shall be maintained by HR in a confidential and secure file. Such records shall be maintained in accordance with the University's Record Retention and Disposal Policy#3.233.

Policy Cross Reference

Faculty Qualifications Policy	Policy # 5.303
Record Retention and Disposal Policy	Policy # 3.233

Forms Cross Reference

Background Release and Authorization for Pre-employment Background Screening	Form 4.109:1
Background Disclosure Form	Form 4.109:2